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Attorney for James K. Short

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

JAMES K. SHORT,)
)
Plaintiff,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
Defendant.)
_____) **Case No.**

COMPLAINT

COMES NOW, James K. Short, by and through the Law Office of Ted Stepovich who for his complaint against the defendant complains and alleges:

1. James K. Short is a resident of the State of Alaska, Third Judicial District.

2. On or about March 31, 2010, Mr. Short filed an Administrative Tort Claim under the Federal Tort Claims Act with the United States Department of Justice, Bureau of Prisons ("BOP"). The Administrative Claim alleged that Mr. Short was injured as a result of medical malpractice on the part of BOP's

medical staff. The Administrative Claim was denied on May 28, 2010.

3. This being a claim against the United States, which alleges injury as a result of medical malpractice and negligence, this Court has jurisdiction of this action under 28 U.S.C. §§ 1346 and 2671 et seq.

4. Mr. Short was incarcerated at the Federal Correctional Institution, Sheridan, Oregon ("Sheridan") and in the custody of the Bureau of Prisons (BOP) from approximately December 28, 2006 until released to the Cordova Center Half-Way House in Anchorage on or about February 19, 2008.

5. During Mr. Short's incarceration at Sheridan, he complained of red blood in his stool and he was seen by medical staff.

6. The standard of care to be applied to complaints of red blood in the stool includes a physical exam and history including checking for signs of disease, such as lumps or anything else that seems unusual and obtaining a history of the patient's health habits and past illnesses and treatments and a family history. The standard of care also includes an exam of the rectum using a proctoscope, and a colonoscopy.

7. Medical staff at Sheridan did not adhere to the standard of care as they did not ask for a family history, did not perform a complete physical examination and did not perform a proctoscopy

and colonoscopy. Instead the medical staff diagnosed Mr. Short as having hemorrhoids and told him that he could purchase hemorrhoid medicine at the prison commissary.

8. Mr. Short continued to have red blood in his stool and his symptoms worsened over time. Medical staff continued with their diagnosis of hemorrhoids, and failed to follow the appropriate standard of care.

9. In August of 2008, Mr. Short was released from the Cordova Center Half-Way Center. He was seen by medical staff at Medical Park Family Group and referred to a specialist for a colonoscopy. On April 17, 2009, Mr. Short underwent a colonoscopy at Anchorage Endoscopy Center and diagnosed with obstructing sigmoid colon cancer which required a colectomy and small bowel resection.

10. The United States, through the BOP and through its medical providers who acted as its agents and employees, was responsible for providing adequate medical treatment to Mr. Short. BOP failed to conduct appropriate lab tests and other diagnostic procedures that are standard practice and as a direct result of that failure, Mr. Short has suffered serious physical injury and serious emotional upset.

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COUNT I

11. All preceding paragraphs of this complaint are incorporated into this first cause of action and plaintiff further complains and alleges:

12. When Mr. Short presented to BOP medical staff, the medical staff failed to exercise the degree of skill and care normally exercised by medical professionals in their respective areas of practice. They failed to perform proper diagnostic testing, and failed to follow their own published guidelines.

13. As a direct and proximate result of the BOP's failure to exercise the degree of skill and care normally exercised by competent medical providers Mr. Short suffered injuries that would otherwise not have occurred.

14. BOP caused Mr. Short to suffer severe emotional distress, and severe pain and suffering and he is entitled to damages with the exact amount to be established at the time of trial. The amount of damages claimed in the administrative tort claim was Three Million Dollars.

WHEREFORE, plaintiff prays for the following relief:

1. An award of damages including an amount for past and future medical expenses, pain and suffering, and emotional distress.

2. An award of attorney fees and costs incurred in the prosecution of this matter.

3. Such other relief, whether, legal or equitable, and whether similar or different than the relief specifically prayed for herein, and to which Mr. Short is otherwise entitled.

DATED this 3rd day of November 2010.

____s/ Ted Stepovich_____

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